

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jeremiah M. Johnson,

Civil No. 16-268 (DWF/HB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Virginia Mandac, M.D., Nacole Lind,
Leigha Bailey, R.N., Scott Yozamp,
and Joseph Witter, in their individual
and official capacities,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Hildy Bowbeer dated December 7, 2016. (Doc. No. 77.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Hildy Bowbeer's December 7, 2016 Report and Recommendation (Doc. No. [77]) is **ADOPTED**.
2. Defendants' Motion to Dismiss (Doc. No. [23]) is **GRANTED IN PART** as to Plaintiff's official capacity claims and claims for injunctive or declaratory relief, which are dismissed with prejudice, and **DENIED IN PART** as to Plaintiff's individual

capacity claims, on the ground that Defendants' Motion to Dismiss for lack of service of process is moot.

3. Defendant Nacole Lind's Motion to Dismiss Individual Capacity Claims (Doc. No. [43]) is **GRANTED** and those claims are dismissed with prejudice.

Dated: February 1, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge